

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) For Authority to, Among Other Things, Increase Its Authorized Revenues For Electric Service in 2006, And to Reflect That Increase in Rates.

Application 04-12-014
(Filed December 21, 2004)

Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of Southern California Edison Company.

Investigation 05-05-024
(Filed May 26, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING THE MOTION OF THE OFFICE OF RATEPAYER ADVOCATES
TO STRIKE A PORTION OF THE UPDATE TESTIMONY OF
SOUTHERN CALIFORNIA EDISON COMPANY**

Background

On March 15, 2005, the Assigned Commissioner's Ruling and Scoping Memo was issued establishing the scope, schedule and procedures for this proceeding. The scoping memo specified that limitations on the scope of rebuttal and update testimony and related requirements set forth in the Rate Case Plan Decision (D.) 89-01-040 as modified by D.93-07-030) is applicable.

The Rate Case Plan limits update testimony to the following:¹

- A. Known changes in cost of labor based on contract negotiations completed since the tender of the NOI or known changes that result from updated data using the same indexes used in the original presentation during hearings.
- B. Changes in non-labor escalation factors based on the same indexes the party used in its original presentation during hearings.
- C. Known changes due to governmental action such as changes in tax rates, postage rates, or assessed valuation.

In accordance with the scoping memo schedule, Southern California Edison Company (SCE) filed update materials on September 26, 2005. On September 28, 2005, the Office of Ratepayer Advocates (ORA) filed a motion to strike portions of that testimony. On October 4, 2005, The Utility Reform Network filed a response in support of the motion, and SCE filed its response in opposition to the motion.

ORA's Motion

SCE's update testimony seeks to change its 2006 postage expense forecast by a net \$1.018 million. The increase reflects a request by the United States Postal Service for a postage rate increase of 5.4% to be effective as early as January 2006. ORA argues that this is not a "known change" in postage rates, but instead is merely a request by the Postal Service for a rate increase. For this reason, ORA maintains that SCE's Update Testimony related to the postage increase should be stricken.

¹ See 30 CPUC 2d 576, Appendix B, p. 609.

SCE also includes update testimony related to the Mohave Generating Station (Mohave). ORA states that issues relating to the operation of Mohave were fully addressed by parties in testimony and in briefs. ORA argues that references to SCE's "beliefs" in the appropriateness of its request, or expressions of "concern" by energy agencies are not "known changes" due to "governmental action," "contract negotiations," or changes in "escalation factors." It is ORA's position that SCE's arguments relating to Mohave go far beyond the limitations set forth in the Rate Case Plan and in the Scoping Memo for this proceeding and should be stricken.

SCE's Response

Regarding the postage update testimony, SCE argues that recent developments in the U.S. Postal Service postage rate case support the conclusion that a postal rate increase is very certain and thus "known." According to SCE, 36 of the 46 parties that have intervened as full or limited participants in the postage rate case have signed a settlement agreement. The settlement agreement's terms include the 5.4% rate increase with an effective date of January 2006. The settlement agreement also seeks a Recommended Decision from the U.S. Postal Rate Commission no later than October 31, 2005. Pursuant to Title 39 of the Code of Federal Regulations, any Recommended Decision will then be submitted to the Board of Governors of the U.S. Postal Service. SCE argues that the U.S. Postal Service is clearly assuming the rate increase will be in effect by January, since it just issued a press release, dated September 27, 2005, on the topic of a new five-year plan already approved by the Board of Governors, which states that its Fiscal Year 2006 operating plan is predicated on a postage rate change of 5.4% taking effect in January 2006.

SCE proposes to increase its annual Authorized Base Revenue Requirement by \$1.018 million on the effective date of the U.S. postage increase and will advise the Commission of that increase with a compliance advice letter. SCE states that by using this process, its revenue requirement will be correctly stated should the U.S. Postal Commission issue a decision with an implementation date other than January 2006 or decide against the postage rate increase. SCE concludes that ORA's motion to strike the postage update testimony should be denied because the existence of the expected postage increase is "known" – the amount of the increase is certain (5.4%) and a recommended decision is likely by October 31, 2005, before a proposed decision is issued in this GRC.

Regarding the Mohave update testimony, SCE states that, under the circumstances of this case, it is entirely appropriate that it should be allowed to update the Commission and the parties at this juncture. According to SCE, Mohave's post-2005 status has remained impossible to predict during the course of this case, leading SCE to introduce into evidence three alternative post-2005 Mohave scenarios and to state more than once that it would update the Commission on Mohave as circumstances allowed. SCE states that its update testimony on Mohave simply follows through on that commitment, in a way that allows all parties an opportunity to cross-examine SCE's witness on the subject. If the Rate Case Plan and Scoping Memo preclude the company from presenting the Mohave testimony in this update phase, SCE argues it should be allowed to resubmit the Mohave testimony as a separate late-filed exhibit on which parties can conduct discovery and cross-examination. While indicating this alternative procedural path would be less efficient than proceeding with it in the update

phase as submitted, SCE believes it is necessary that this testimony be part of the record.

Discussion

ORA is correct that the postage increase is not known at this time. Whether it is as certain as portrayed by SCE is questionable. However, SCE has provided information that indicates that, within a very short timeframe, any increase may be known for certain. It is reasonable to provide an opportunity for the company to demonstrate the increase will occur soon and to consider that in the upcoming GRC decision. For this reason, ORA's motion to strike SCE's postage increase testimony will be denied.

ORA also correctly points out that the Mohave testimony is beyond the scope of update testimony as identified in the Rate Case Plan. However, due to the circumstances regarding the operating status of Mohave beyond 2005, the limited information provided by SCE is appropriate. In its original testimony, SCE did provide three alternative scenarios; and, through the course of this proceeding, the company did indicate that, before a GRC decision is reached, it needs to put on the record what it believes the ultimate outcome is going to be. While the Mohave operating status update testimony essentially indicates that there is still nothing certain at this point, that information is still important to know in evaluating the Mohave issue in this GRC. For that reason alone, we will allow SCE to include such information in the update phase and will deny ORA's motion to strike it.

IT IS RULED that the Motion of the Office of Ratepayer Advocates to Strike a Portion of the Update Testimony of Southern California Edison Company is denied.

Dated October 6, 2005, at San Francisco, California.

/s/ DAVID K. FUKUTOME

David K. Fukutome
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying the Motion of The Office of Ratepayer Advocates to Strike a Portion of the Update Testimony of Southern California Edison Company on all parties of record in this proceeding or their attorneys of record.

Dated October 6, 2005, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

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